IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

ST.Appl..No. 6 of 2006()

AGAINST THE ORDER DATED 04/05/2006 IN R2-7050/04/CT. IN R2.7050/2004 of COMMR. OF COMMERCIAL TAXES, TRIVANDRUM

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APPELLANT:

M/S. WINS SAW MILLS & PACKING CASES,
PARASSALA, THIRUVANANTHAPURAM DISTRICT,
REP. BY WINS DANIEL, POWER OF ATTORNEY.

BY ADV. SRI.JOSE JOSEPH

RESPONDENT:

THE COMMISSIONER OF COMMERCIAL TAXES,
PUBLIC OFFICE BUILDINGS, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM.

BY SPECIAL GOVT. PLEADER (TAXES) MR.V.V.ASOKAN

THIS SALES TAX APPEAL HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J. &
M.N.KRISHNAN, J.

S.T.A.No.6 of 2006

Dated, this the 13th day of March, 2007

JUDGMENT

Radhakrishnan, Ag.C.J.

On the basis of the direction given by another Bench of this Court on 25th July, 2006 records were made available and we have perused the same. This appeal arises out of an order passed by the Commissioner of Commercial Taxes dated 4.5.2006. The Commissioner of Commercial Taxes suo motu initiated proceedings and reversed the order passed by the Deputy Commissioner under Section 37 of the Kerala General Sales Tax Act. The Commissioner had specifically stated in the order that as per Rule 32(18) of the Act, delivery note shall be prepared in triplicate with the duplicate and triplicate being carbon copies of the original. The Commissioner also noticed that the dealer has acted in contravention of the provisions laid down in the Kerala General Sales Tax Act and Rules with the willful intention so as to manipulate the records and evade tax. After perusing the records the Commissioner also found that the

duplicate copy recovered at the time of inspection was prepared first and the original and triplicate copies were prepared after recovery by the officials of the Department. After perusing the records we are also convinced that the Commissioner rightly held that an attempt at evasion of tax is proved as evidenced from records produced. We are of the view that the Commissioner has rightly interfered with the order passed by the Deputy Commissioner and reversed the order to that of the Intelligence Officer.

The appeal lacks merit and it is dismissed.

Sd/-
K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.

Sd/-
M.N.KRISHNAN,
JUDGE.

vns

/ true copy /

P.S. to Judge